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Division of Parks & Recreation
Director's OfficePreliminary Comments – May 1, 2006

Good Evening Council Members and Others. Thank you for this Public Hearing regarding Promulgation of Maps Pursuant to the Delaware Land Protection Act.

As Land Use Chair of the Delaware Chapter of the Sierra Club I will offer these preliminary remarks with amplified written comments to be submitted later. Full disclosure is offered for the benefit of any who may assume that should I remain silent regarding my other affiliations, then those relationships might be operative in this venue, when they are not.

I sit on the Delaware Natural Areas Advisory Council as a Kent County landowner and the Delaware Nutrient Management Commission representing Sierra Club. For eight years I functioned as the Open Space, Parks, Conservation, and Greenway Planner for Kent County and I am now Parks Director for Kent County Government.

These responsibilities may speak to some of my competency regarding these comments, but I remind you that I speak solely on behalf of the Delaware Chapter of Sierra Club as a private citizen this evening.

Ron Vickers, Matt Chesser and their team in the Planning and Preservation Section are to be commended for their efforts to prudently and professionally address the goals of the Open Space Natural Areas Programs. Delaware is well served by the dedication which they and their staff provide. I note the presence of many of the working staff whose contributions have infused this mapping process with integrity and defensibility. We applaud and support their work.

Delaware Sierra believes that the Proposed Natural Areas Maps generally offer a balanced and conservative representation of the intentions of the controlling statute at Chapter 73 and largely represent appropriate sources and inputs. With nominal adjustments, for which we shall provide some graphic depictions for the Council's consideration after the Public Hearing, these maps can serve as the minimal benchmark of sensitive natural areas to be preserved for habitat and living resources conservation. I note that the passage of time during the development of these maps, has permitted the loss and fragmentation of thousands of acres of otherwise potential Delaware Natural Areas. Conserving what remains has become more critical than the framers of the Statute may have imagined.

Alternatively, my comments tonight specifically request that the Department's Proposed State Resource Maps do require moderate adjustments to more accurately reflect the community and ecological services that the Delaware Land Protection Act envisioned and articulated as the intended purpose of these maps.

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Theodore Roosevelt

Mapping the State Resource Areas is simultaneously a descriptive, analytic and regulatory exercise. We ask that you neither disregard nor over-emphasize this regulatory intention. Because Delaware does not coordinate land use planning from a cohesive and comprehensive statutory authority; Planning, Preservation, and Conservation occur iteratively between and across the various levels of Governments, agencies, and programs including: Spending Strategies, Comprehensive County and Municipal Plans, Government Cost Shares, Grants, and Loans, and Federal and State and Local codes, Farm Bill Programs, Fish and Wildlife landowner programs, and Federal, State and Local Capital Plans represent some of the disparate pieces of the puzzle.

When this iterative nature of Delaware land use planning scheme has the opportunity to collectively rely on a single data set, as in the case of the provisions of SRAs in Chapter 75 of the Delaware Code, we must look behind the most immediate level of land use cover descriptions and create maps of the landscape as it can actually function under the intended diverse authorities of multiple programs and levels of government.

As they are presently proposed, the SRA's capture the essential minim natural components but offer an excess of mapping specificity and detail that betray the uniformly cohesive character of landscape and watershed resources. The proposed SRA coverage jumps from hedgerow to forest edge, to ditch bank and roadside in an overly zealous attempt to capture only the very most individually defensible land coverage elements. It is superior work, but poorly anticipates its use under the land use provisions for Overlay District Regulations by County Land Use Planning at §7508.

This type of error is made repeatedly in the failure to adequately map and zone for broad transition areas around town centers, growth zones, older spot zoning and annexations. It is equally rampant in water quality management and watershed protection where the transitions from use support designation of stream segments to surrounding land use is not adequately recognized. Sierra, for instance, was unable to link existing streamside habitat data to pollution control strategies in the Consent Decree for the 1997 CWA §303D Lawsuit in District Court for water quality limited streams in Delaware.

We are confident that the Open Space Program will address these SRA maps in a useful and effective fashion. We are comfortable with the role that the SCORP will play in implementing the State Trust Fund and other sources of community assistance to acquire inclusive easements and parklands. But the thrust and intent of §7508 will not be adequately served by the excessive detail and complex delineation of margins, edges, small farm fields, embedded agfields, buffers, and transitional habitats surrounding the proposed State Natural Areas. All lands of such nature and character should be identified within the Proposed SRAs in smoothly contoured polygons which will lend themselves to Local Overlay Ordinances.

We should leave to the Counties and Municipalities the constituent representation issues for preferences for tools to preserve open space resources and property values. We can leave to the Counties and Municipalities the issues of private land rights which are attendant on requests for map revisions, variances and waivers for cause in the same way we do so for floodplains and wetlands setbacks. Section 7508 makes sufficiently generous references to performance standards and development rights, clustering and transfer of development rights that we should not diminish the effect of conservation

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biology and science in the mapping process. The State Resource Area Maps should not offer anticipatory dispensation from the known synergies that exist between forest, meadow, marginal farm fields and other buffers of the Proposed State Natural Areas. The SRAs should provide this clarity.

Disproportionate impairments of the upland, wetland, and aquatic habitats of natural communities of the forest polygons are routinely observable throughout the Proposed SRA maps. These habitat degradations are by encroachments of small isolated and "point" pasture fields and minor cultivated lands which intrude into the Natural Area forest cover. Any such configuration within these maps should be resolved by including the embedded farmfield as a portion of the State Resource Area to function as a buffer on the core Natural Area.

This configuration occurs with sufficient frequency and geographic distribution that we cannot disregard the aggregate effect on the natural resources which these maps are intended to capture for preservation and planning purposes. Addressing this type of geographic situation throughout the maps is consistent with the guidance broadly articulated within the Land Protection Act.

There are numerous examples of this lopsided impact of small farm fields throughout the Blackbird-Millington Conservation Corridor and elsewhere within each of the three Counties. I suggest that the area between Lloyd Guessford Road, Dexter Corner Road, VanDyke Greenspring and Blackbird Station Roads will produce about a half dozen such specific instances of this relationship. This scrutiny will also reveal many more adjacent farmfields and pastures that were appropriately excluded because they contain actual constructed real property improvements or productive agfields.

While there is clearly no practical way to further delimit forestlands internally from their perimeters when they are impaired by embedded farmfields, we can capture the effect of these fields and edges, and therefore the planning and preservation intentions of the maps, by including these additional small embedded pasture and crop fields in the proposed SRAs and surround the sensitive NAs with a suitable safety net.

The Delaware Chapter of Sierra will provide supplemental comments in writing at a later date. Thank you very much for your attention and all the good work of Delaware's Open Space Program.

Respectfully,
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